

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	No. 10 CR 155-1
)	Judge William J. Hibbler
GONAZALO GARCIA-AVILA, et al.)	

GOVERNMENT’S RESPONSE TO DEFENDANT’S WRITTEN ALOCUTION
[sic] IN LIEU OF SENTENCING

The UNITED STATES OF AMERICA, by its attorney, PATRICK J. FITZGERALD, respectfully submits this Response to Defendant’s Written Alocution [sic] in Lieu of Sentencing. The Government states as follows:

1. Although he is represented by counsel, defendant has filed a *pro se* pleading that questions the jurisdiction of the Court. Specifically, defendant argues that Title 18 of the United States Code is void because of a lack of quorum in Congress at certain dates during the 1940s and that the Court “could not obtain jurisdiction over Title 18 crimes under the 1909 act due to the Fair Warning Doctrine.” (Motion at 1).

2. In *United States v. Charles*, 242 Fed.Appx. 362, 2007 WL 2768906 (CA7 2007), the Seventh Circuit rejected a similar challenge to federal jurisdiction over crimes against the United States, stating succinctly: “This case is unbelievably frivolous. We AFFIRM.” *Id.* at *1. The Court should likewise reject defendant’s frivolous claims here.

3. Defendant’s pleading shows nothing more than the fact that he continues to refuse to accept responsibility for orchestrating a large-scale methamphetamine deal. The Court should consider this failure to accept responsibility when it imposes sentence. Defendant’s advisory guideline sentencing range is 360 months to life imprisonment.

For the foregoing reasons, the Court should find that it has jurisdiction over this case and should proceed to impose a guideline-based sentence.

Dated: March 7, 2012.

Respectfully submitted,

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United States Attorney

/s/ Christopher R. McFadden

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CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that in accordance with Fed. R. Crim. P. 49, Fed. R. Civ. P. 5, LR5.5, and the General Order on Electronic Case Filing (ECF), the following document:

Government's Response to Defendant's Written Alocution [sic] in Lieu of Sentencing

was served pursuant to the district court's ECF system as to ECF filers. A copy also was mailed to:

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DATE: March 7, 2012.